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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/810,159	03/19/2001	Shuwu Wu	06975-099001	9046

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EXAMINER

NGUYEN, TRONG NHAN P

ART UNIT	PAPER NUMBER
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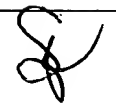
2154

DATE MAILED: 07/06/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

2

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/810,159	WU ET AL. 	
	Examiner	Art Unit	
	Jack P Nguyen	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 3/19/01.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/19/01 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. Claim 1-26 are pending examination.

### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference character(s) mentioned in the description: Figures 9 and 10 are missing in the drawings but are mentioned in the Specification. Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

3. Claim 4 is objected to because of the following informalities: the word "text" is misspelled for "test". Examiner assumes applicant means "text". Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 5-9 and 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 5, applicant fails to define scope of the capabilities being claimed. In claim 26, a propagated signal is an impulse or a fluctuating electric quantity not a device or medium to store a computer program. Applicant is advised to cancel or amend the claim.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-15 and 21-26 rejected under 35 U.S.C. 102(b) as being anticipated by Sekiguchi et al, 5,848,134 (hereafter Sekiguchi).

8. As per claim 1, Sekiguchi teaches a communications method comprising:  
enabling instant messaging communication between a sender and at least one recipient through an instant messaging host (Fig. 1, C2, L56-63);  
and enabling voice communication between the sender and the recipient through the instant messaging host (Fig. 1, C3, L16-24).

9. As per claims 2 and 13, Sekiguchi teaches the method of claim 1 further comprising receiving and authenticating a text instant message from the sender at the instant messaging host (Fig. 3, C7, L46-49).

10. As per claims 3 and 14, Sekiguchi teaches the method of claim 2 wherein authenticating the text instant message comprises identifying a screen name associated with at least one of the sender and the recipient (Fig. 3, C7, L49-53).

11. As per claims 4 and 15, Sekiguchi teaches the method of claim 2 wherein authenticating the test instant message comprises identifying an IP address associated with at least one of the sender and the recipient (Fig. 2, C6, L54-57. *Upon entering an Instant Messaging room, the login server assigns a unique identifier to the subscriber that will be used to access the IM room.*)

12. As per claim 5, Sekiguchi teaches the method of claim 1 further comprising determining capabilities of the recipient at the instant messaging host (Fig. 1, C3, L36-41).

13. As per claim 6, Sekiguchi teaches the method of claim 5 wherein determining capabilities comprises identifying hardware associated with the recipient (Fig. 1, C3, L36-41).

14. As per claim 7, Sekiguchi teaches the method of claim 5 wherein determining capabilities comprises identifying software associated with the recipient (Fig. 1, C3, L36-41).

15. As per claim 8, Sekiguchi teaches the method of claim 5 further comprising reporting the capabilities of the recipient to the sender (Fig. 1, C5, L23-29).

16. As per claim 9, Sekiguchi teaches the method of claim 8 wherein the sender displays a user interface according to the capabilities of the recipient (Fig. 1, C5, L25-34).

17. As per claim 10, Sekiguchi teaches the method of claim 1 further comprising receiving, at the instant messaging host, a request to establish voice communication (Fig. 5B, C9, L32-35).

18. As per claim 11, Sekiguchi teaches the method of claim 10 wherein the request is from the sender (Fig. 5B, C9, L38-44).

19. As per claim 12, Sekiguchi teaches the method of claim 10 wherein the request is from the recipient (Fig. 5B, C9, L39-44).

20. Claims 21 and 22 are communications apparatus and computer program stored on computer medium claims that correspond to claim 1, and are rejected for the same reasons as claim 1.

21. As per claim 23, Sekiguchi teaches the computer program of claim 22 wherein the computer readable medium is a disc (Fig. 1, C2, L57-62) .

22. As per claim 24, Sekiguchi teaches the computer program of claim 22 wherein the computer readable medium is a client device (Fig. 1, C3, L16-22).

23. As per claim 25, Sekiguchi teaches the computer program of claim 22 wherein the computer readable medium is a host device (Fig. 1, C3, L22-24).

24. As per claim 26, Sekiguchi teaches the computer program of claim 26 wherein the computer readable medium is a propagated signal (Fig. 1, C2, L22-24).

***Claim Rejections – 35 USC § 103***

25. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

26. Claims 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sekiguchi in view of Morris et al, WO 00/60809 (hereafter Morris).

27. As per claim 16, Sekiguchi does not explicitly show the method of claim 1 wherein enabling voice communication comprises establishing a generic signaling interface channel, a control channel, and an audio channel between the sender and the recipient.



28. Morris shows the functional components of the webtalk engine to comprise executable instructions forming a communication module, audio module, and interface module (Fig. 6, element 406, page 11, L4-18).

29. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Sekiguchi and Morris to establish an active talk session using these three communication channels.

30. As per claims 17 and 19, Sekiguchi does not explicitly shows the method of claim 16 further comprising attempting a mode UDP test on the audio channel.

31. Morris shows using mode UDP to send audio packet data on the audio channel (Fig. 5A, P9, L19-31).

32. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Sekiguchi and Morris to use UDP on the audio channel as a simple and efficient way to send audio data packets to recipients.

33. As per claims 18, Sekiguchi does not explicitly shows the method of claim 16 wherein the control channel comprises a TCP/IP socket.

34. Morris shows the packet control module comprises a TCP/IP socket (figs. 5A & 5B, P9, L19-23; P10, L3-12).

35. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Sekiguchi and Morris to use TCP/IP to send and receive data over the network while the talk session is active.

36. As per claims 20, Sekiguchi does not explicitly shows the method of claim 16 wherein the audio channel comprises a TCP channel.

37. Morris shows the audio channel comprises a TCP channel (fig. 5A, P9, L19-31).

38. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Sekiguchi and Morris to use TCP channel as a backup to UDP channel upon the failure of UDP. TCP channel is also more reliable than UDP and provides full-duplex, process-to-process connections.

### ***Conclusion***

39. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Method and Apparatus for Automatic Chat Room Source Selections Based on Filtered Audio Input Amplitude of Associated Data Streams – Broussard et al, 6,317,776 – apparatus and method to select a video stream of a video-conference for transmission or display.
- System and Method for Multiple Asynchronous Text Chat Conversations – DeSimone et al, 6,212,548 – a plurality of users communicate in a plurality of real-time text conversations.
- Assignable Associate Priorities for User-Definable Instant Messaging Buddy Groups – Aravamudan et al, 6,301,609 – utilizing the features and capabilities associated with instant messaging to locate a registered user, query the user for a proposed message disposition, and coordinate services among a plurality of communication devices, modes, and channels.
- System and Method for Visually Identifying Speaking Participants in a Multi-Participant Networked Event – Lerner et al, 6,192,395 - method of visually identifying speaking participants in a multi-participant such as an audio conference or an online game includes the step of receiving packets or digitized sound from a network connection.

40. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack P Nguyen whose telephone number is (703) 605-4299. The examiner can normally be reached on M-F 8:30-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (703) 305-8498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jpn



**ZARNI MAUNG**  
**PRIMARY EXAMINER**